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EXAMINER

RODRIGUEZ, RUTH C

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|----------|--------------|

3626

DATE MAILED: 02/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/813,592

Applicant(s)

LUBERA ET AL.

Examiner

Ruth C Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 336. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 75. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

3. The disclosure is objected to because of the following informalities:

- Page 3, line 2, --of-- should be inserted between "roof" and "the".
- Page 9, line 8, "of" should be replaced with --or-- at the end of the line
- Page 16, line 6, "with" should be replaced with --which-- between "208"

and "further"

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- Page 17, line 7, "holes 344" should be replaced with --apertures 316-- between "the" (second occurrence) and "in"
- Page 17, line 20, "344," should be replaced with --376,-- between "through-holes" and "each" and "74" should be replaced with --75-- between "fastener" and "that"
- Page 18, line 1, "74" should be replaced with --75-- between "fasteners" and "are"

Correction is required.

### ***Double Patenting***

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1-40 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-40 of copending Application No. 09/772,046. This is a

provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 23-27, 43 and 49-52 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 23 recites the limitation "the flanges" in the fifth line of the claim. It is unclear whether "the flanges" is referring to the pair of flanges or to the abutting flanges.

- Claim 43 recites the limitation "the first, second and third portions" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim.

- Claim 49 recites the limitation "the structure" in the twelfth line of the claim. It is unclear whether "the structure" is referring to the first structure or to the second structure.

***Claim Objections***

8. Claim 9 is objected to because of the following informalities: Line 5, "fist" should be replaced with --first--. Correction is required.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 2, 5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Postadan et al. (US 6,095,734) in view of Dean (US 2,181,966).

Postadan discloses a resilient clip (10) for use in securing a first member (40,70) to a second member (50,80,160) (Figs. 4, 5 and 7). The resilient clip comprising a flange portion (14), an inserting portion (36) and a retaining portion (24). The flange portion has an aperture (16) to receive a threaded fastener (22,140) to couple the second member to the flange portion (Figs. 4, 5 and 7). The insertion portion is configured to be inserted into a hole (42,72) formed into the first member (Figs. 4,5 and 7). The inserting portion is coupled to the flange portion. The retaining portion is coupled to the insertion portion and has first and second wing members (24a,24b). Fischer fails to disclose that the wing member are twisted about an associated axis and terminate in a tip portion adapted to engage the first member.

However, Dean teaches a resilient clip having wing members (28,30,32,34). A first wing member (30) twisted about a first axis in a first direction and a second wing member (34) twisted about a second axis in the first direction (C. 2, L. 15-27) (Fig. 3). Each of the wing members terminates at a tip portion that is adapted to engage a first member (Figs. 1 and 3). The wing members are twisted about an associated axis (C. 2,

L. 15-27) and terminate at a tip portion that is adapted to engage the first member (Figs. 1 and 3). The main advantage of these wing members is that the members are adapted to compensate for differences in the thickness of a first member (12) and securely hold a second member against the first member (C.1, L. 8-16). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

The resilient clip taught by Dean has the following:

- Each of the tip portions is angled such that a portion of an associated one of the first and second wing members nearest a centerline of the aperture in the flange portion is longer than a portion of the associated one of first and second wing members farthest from the centerline of the aperture in the flange portion (Fig. 3)
  - The tip portion has a flat edge contacting the first member (Fig. 1)
  - Each of the first and second wing members further includes a base portion that is fixedly coupled to an insertion (Figs. 1, 3 and 4). The first and second wing members being twisted such that their tip portion are twisted relative to their base portion by an angle of about 5 degrees to about 45 degrees (Fig. 3).
    - The angle is about 30 degrees (Fig. 3).

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11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Postadan/Dean as applied to claim 2 above, and further in view of Anderson (US 5,251,467).

The combination of Postadan and Dean used for the rejection of claim 2 having all the limitations listed above fails to disclose a plurality of teeth for contacting the structure. However, Anderson shows a cam lock comprising a pair of wing members (25). The wing members initially are shown have an edge with a flat surface for contacting a structure (5,6) (Figs. 5 and 6). Anderson also shows that the wing members have an edge with a plurality of teeth (Fig. 7). The teeth will lock the edges of the wing members against the structure and allow for variations in thickness of the structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a plurality of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Postadan and modified by Dean. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

12. Claims 15-17, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Postadan/Dean as applied to claim 1 above, and further in view of Hansz (US 6,179,366 B1) and Ueno (US 5,704,753).

The combination of Postadan and Dean having all the limitations listed above for the rejection of claim 1 fails to disclose a spacing structure having first and second flange members. However, Hansz demonstrates a mounting clip assembly (10) for securing a first member (26) to a second member (12). The clip assembly comprises a



resilient clip (58) and a spacing structure (48). The spacing structure has a first flange coupled (52) to the flange portion of the resilient clip. The mounting clip assembly demonstrated by Hansz improves quality because it reduces loose assemblies and is easier to install (C. 2, L. 1-4). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use the a spacing structure as demonstrated by Hansz with the resilient clip disclosed by Postadan and modified by Dean. Doing so, will improve the quality of the installation because the system is easier to install and reduces loose assemblies due to clips not being seated properly.

Regarding to having a spacing structure with a second flange being coupled to an outer edge of the first flange, Ueno shows a connector device for securing a first member (P1) to a second member (P2) (Figs. 9-10(B)). The connector comprises a main body (3) having two flange members (1, 11) coupled to the outer edge of the main body and tapering downwardly toward the retaining portion (8a) and outwardly from the main body (Figs. 2-4 and 6). The flange members can elastically deform to prevent wobbling between the connector and the first or second members (C.6, L. 24-34). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second flange member as shown by Ueno coupled to an outer edge of the flange member demonstrated by Hansz. Doing so, will prevent wobbling between the resilient clip and the first structure.

Hansz demonstrates that the spacing structure is formed by a resilient material (C. 3, L. 21-25).

The resilient material demonstrated by Hansz is plastic (C. 3, L. 21-25).

Hansz discloses that the first flange member has a square shape. But, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a circular shape instead of a square shape because a change in shape of the prior art is considered a design choice. Also, one of ordinary skill in the art will recognize that the first flange member having a circular shape will perform equally as a flange member having a square shape specially since the applicant does not disclose and advantage derived from this shape.

Ueno shows a second flange member that extends entirely around a perimeter of the main body.

13. Claims 28, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean.

Dean discloses the combination of a resilient engaging a structure (12). The resilient clip comprises a body portion for insertion downwardly into a hole (22) formed in the structure (Fig. 1). The body portion including a plurality of wing members (28,30,32,34) and each of the wing members has a base portion and terminating at a tip portion that is angled downwardly toward the base (Figs. 1, 3 and 4). Each of the tip portions being twisted about an axis such that an inwardly twisted end of the tip portion is positioned above an outwardly twisted end of the tip portion (Fig. 3). Dean fails to disclose a ratio of insertion force to pull-out force of about 0.04 to about 0.12. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to recognize that the plurality of wing members cooperating with the structure could provide a resilient clip with a ratio of insertion to pull-out force of

about 0.04 to about 0.12. And even if the resilient clip does not comply with this ratio, one with ordinary skill in the art will recognize that the ratio could be achieved by changes the dimensions of the prior art until the desired ratio is obtained.

Once again, it would have been obvious to one having ordinary skill in the art at the time the invention of applicant's invention to have a ratio of insertion force to pull-out force of about 0.04 to about 0.10.

14. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dean as applied to claim 28 above, and further in view of Anderson.

Dean discloses a resilient clip having all the limitations listed above for the rejection of claim 28. Dean fails to disclose a plurality of teeth for contacting the structure. However as described above, Anderson shows wing members having an edge with a plurality of teeth. The teeth will lock the edges of the wing members against the structure and allow for variations in thickness of the structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a plurality of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Dean. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

15. Claims 23, 24, 26, 28, 30, 32, 34-36, 41, 42, 44-46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US 5,919,019) in view of Dean.

Fischer discloses a resilient clip (10) for engaging a structure (14) (Fig. 5). The resilient clip comprising a body portion having a pair of flanges (12), a pair of wing

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members (44,46) and a pair of abutting flanges (48). Each of the wing members has a base portion coupled to an associated one of the pair of flanges (Figs. 1, 2 and 4). The wing members are configured to engage a first side of the structure and position a second side of the structure against the abutting flanges. Fischer fails to disclose that the wing member are twisted about an associated axis and terminate in a tip portion adapted to engage the first member. However as mentioned above, Dean teaches a fastening device comprising wing members twisted about an associated axis in a first direction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

The resilient clip disclosed by Fischer further comprises a flange portion (12) coupled to the body portion. The flange portion including an aperture (16) adapted to threadably engage a threaded fastener. Fischer fails to disclose that the aperture includes a helical lip. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a helical lip instead of the sleeve disclosed by Fischer. Since the applicant does not provide any particular reason to use the helical lip instead of sleeve, one having ordinary skill in the art will recognize the interchangeable use of helical lips and sleeves to threadably engage a threaded fastener in resilient clips.

Fischer discloses a resilient clip comprising a body portion for insertion downwardly into a hole (18) formed in the structure (Fig. 5). The body portion includes a plurality of wing members (44,46). Fischer fails to disclose that the wing member are twisted about an associated axis and having a ratio of insertion force to pull-out force of about 0.04 to about 0.12. However as described above, Dean teaches resilient clip having a plurality of wing members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to recognize that the plurality of wing members cooperating with the structure taught by Dean could provide a resilient clip with a ratio of insertion to pull-out force of about 0.04 to about 0.12. And even if the resilient clip taught by Dean does not comply with this ratio, one with ordinary skill in the art will recognize that the ratio could be achieved by changes the dimensions of the prior art until the desired ratio is obtained.

Fischer discloses a resilient clip comprising all the features mentioned above. Fischer fails to disclose that the wing member are twisted about an associated axis. However as mentioned above, Dean teaches resilient clip having a plurality of wing members. Each of the plurality of wing members terminating at a generally flat and continuous edge (Figs. 3 and 4). The flat edge of each tip portion engages the edge of

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the hole and inhibits relative movement between the resilient clip and the structure in a direction parallel a longitudinal axis of the hole (Figs. 1, 2, 5 and 7). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

Dean discloses that contact between the flat edges and the edges of the hole centers the clip relative to the longitudinal axis of the hole (Figs. 1, 2, 5 and 7).

Fischer discloses a resilient clip (10) for use in securing a first member (28) to a second member (14) (Fig. 5). The resilient clip comprising a flange portion (12), an inserting portion and a retaining portion (44,46,58). The flange portion has an aperture (16) to receive a threaded fastener (26) to couple the second member to the flange portion (Fig. 5). The insertion portion is configured to be inserted into a hole (18) formed into the first member (Fig. 5). The inserting portion is coupled to the flange portion. The retaining portion is coupled to the insertion portion and has at least three wing members (44,46). Fischer fails to disclose that the wing member are twisted about an associated axis and terminate in a tip portion adapted to engage the first member.

However as described above, Dean teaches a fastening device comprising a resilient clip having at least three wing members (28,30,32,34). The wing members are twisted about an associated axis (C. 2, L. 15-27) and terminate at a tip portion that is adapted to engage the first member (Figs. 1 and 3). Therefore, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

The resilient clip disclosed by Fischer has the following:

- The insertion portion is defined by a pair of flanges (36,38) that are spaced apart about a central axis of the resilient clip (Figs. 2 and 4). Each of the flanges having a first portion (between 52 and 54) and a second portion (between 54 and the end of the flange). The first portion is coupled to the flange portion and tapering inwardly toward the central axis (Figs. 2 and 4). The second portion is coupled to an end of the first portion opposite the flange portion and tapering outwardly away from the central axis and upwardly toward the flange (Figs. 2 and 4).
- The insertion portion has a pair of tapered sides that tapers downwardly and inwardly toward the central axis (Figs. 1, 2 and 5)
- The retaining portion includes four wing members (44,46) (Figs. 1, 2, 3 and 5)

Fischer discloses a resilient clip comprising a body portion (30) having a pair of flanges (36,38) and four wing member (44,46) (Figs. 1, 2, 3 and 5). Each of the wing members has a base portion coupled to an associated one of the flanges (Figs. 1, 2 and 4). A first one of the wing members (44) is coupled to one of the flanges (36), a second one of the wing members (46) coupled to the first one of the flanges (36), a third one of the

wing members (46) coupled to a second one of the flanges (38) and a fourth one of the wing members (44) coupled to a second one of the flanges (38). Fischer fails to disclose that the wing member are twisted about different axis.

However as described above, Dean teaches a fastening device comprising a resilient clip secured to a structure and having four-wing members (28,30,32,34). A first wing members twisted about a first axis in a first direction, a second wing member twisted about a second axis in a second direction opposite the first direction, a third wing member twisted about a third axis in a first direction and a fourth wing member twisted about a fourth axis in a second direction opposite the first direction (C. 2, L. 15-27) (Fig. 3). Each of the wing members terminates at a tip portion that is adapted to engage first side of the structure to secure the resilient clip to the structure (Figs. 1 and 3). A portion of each of the wing members nearest a central axis of a body portion extends above an associated portion of each of the wing members that is furthest from the central axis of the body. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

Fischer also discloses that the first and third wings member are located cross-corner from one another.



16. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Dean as applied to claim 23 above, and further in view of Anderson.

The combination of Fischer and Dean used for the rejection of claim 23 having all the limitations listed above fails to disclose a plurality of teeth for contacting the structure. However as mentioned above, Anderson shows that the wing members have an edge with a plurality of teeth. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a plurality of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Fischer and modified by Dean. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

17. Claims 27, 31 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Dean as applied to claims 26 and 30 above, and further in view of Hansz and Ueno.

The combination of Fischer and Dean having all the limitations listed above for the rejection of claims 26, 30 and 36 fails to disclose a spacing structure having first and second flange members. However as described above, Hansz demonstrates a mounting clip assembly comprising a spacing structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use the a spacing structure as demonstrated by Hansz with the resilient clip disclosed by Postadan and modified by Dean. Doing so, will improve the quality of the installation because the system is easier to install and reduces loose assemblies due to clips not being seated properly.

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Regarding to having a spacing structure with a second flange being coupled to an outer edge of the first flange, Ueno shows a connector device comprising a main body having two flange members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second flange member as shown by Ueno coupled to an outer edge of the flange member demonstrated by Hansz. Doing so, will prevent wobbling between the resilient clip and the first structure.

18. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of Dean and Anderson.

Fischer discloses a resilient clip for engaging a structure. The resilient clip comprising a body portion including a plurality of wing members. Fischer fails to disclose that the wing members are twisted about an associated axis and that each of the wing members includes a plurality of teeth for engaging a surface of the structure. However as taught above, Dean teaches a fastening device comprising wing members twisted about an associated axis in a first direction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member. Regarding, a plurality of teeth for engaging a surface of the structure, Anderson shows wing members having a plurality of teeth for engaging a surface of the structure. Therefore, it would have been obvious to one having ordinary

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skill in the art at the time of applicant's invention to use a plurality of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Fischer and modified by Dean. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

19. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Dean/Anderson as applied to claim 39 above, and further in view of Hansz and Ueno.

The combination of Fischer, Dean and Anderson has all the limitations listed above for the rejection of claim 39 and fails to disclose a spacing structure having first and second flange members. However as described above, Hansz demonstrates a mounting clip assembly comprising a spacing structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use the a spacing structure as demonstrated by Hansz with the resilient clip disclosed by Postadan and modified by Dean. Doing so, will improve the quality of the installation because the system is easier to install and reduces loose assemblies due to clips not being seated properly.

Regarding to having a spacing structure with a second flange being coupled to an outer edge of the first flange, Ueno shows a connector device comprising a main body having two flange members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second flange member as shown by Ueno coupled to an outer edge of the flange member demonstrated by Hansz. Doing so, will prevent wobbling between the resilient clip and the first structure.

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20. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Dean as applied to claim 42 above, and further in view of Postadan et al. (US 6,095,734).

The combination of Fischer and Dean used for the rejection of claim 42 having all the limitations mentioned above fails to disclose a fastener aperture in the first and second portions. However, Postadan demonstrates a resilient clip (100) having a fastener aperture (28) formed into the first and second portions. The aperture also provides clearance for a fastener (22). The hole is provided to simplify the manufacturing process of the clip (C. 4, L. 35-38). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a fastener aperture formed in the first and second portions as demonstrated by Postadan in the resilient clip disclosed by Fischer and modified by Dean. Doing so, will simplify the manufacturing process of the clip and reduce the amount of material required for the clip.

21. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Dean as applied to claim 46 above, and further in view of Anderson (US 5,251,467).

The combination of Fischer and Dean used for the rejection of claim 46 having all the limitations listed above fails to disclose a plurality of teeth for contacting the structure. However as described above, Anderson shows a cam lock comprising a pair of wing having an edge with a plurality of teeth. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a plurality

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of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Fischer and modified by Dean. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

22. Claims 49-53, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wisniewski (US 6,141,837) in view of Dean.

Wisniewski discloses a resilient clip (22) for engaging a first structure (24) to a second structure (26). The resilient clip comprises a body portion having a pair of flanges (44,46) and first and second wing members (70,72). Each of the wing members has a base portion coupled to an associated one of the flanges (Figs. 1-3). The wing members engage a first side of the structure to secure the resilient clip to the second structure (Fig. 1). Wisniewski fails to disclose that the wing members are twisted about an axis.

However as described above, Dean teaches a resilient clip for engaging a first structure to a second structure. The resilient clip comprising a pair of flanges (20) and wing members (28,30,32,34). Each of the wing members has a base portion coupled to an associated one of the flanges (Fig. 4). A first wing member (30) twisted about a first axis in a first direction and a second wing member (34) twisted about a second axis in the first direction (C. 2, L. 15-27) (Fig. 3). Each of the wing members terminates at a tip portion that is angled downwardly toward the base portion such that a portion of each of the wing members nearest the central axis of the body portion extends above the associated portion of each of the wing members that is furthest from the central axis of the body (Fig. 3). The tip portions are configured to engage a first side of a second

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structure to secure the resilient clip to the second structure. The main advantage of these wing members is that the members are adapted to compensate for differences in the thickness of a first member (12) and securely hold a second member against the first member (C.1, L. 8-16). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Wisniewski. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

The resilient clip disclosed by Wisniewski also comprises the following:

- An engagement portion having a plurality of teeth (62,64) extending inwardly toward the central axis of the body portion and downwardly toward the base portion of the wing members (Figs. 1-3). The plurality of teeth is configured for engaging the first structure (Fig. 1).
- The body portion is generally U-shaped (Figs. 1-3).
- The teeth are generally triangular in shape (Fig. 2 and 4).

Wisniewski discloses in combination, a resilient clip (22) for coupling a first structure (24) to a second structure (26). The first structure includes a fastening tab (38). The second structure includes a clip aperture (28). The resilient clip includes a body portion and an engagement portion. The body portion includes a pair of flanges and first and second wing members. The engagement portion has a plurality of teeth having all the features disclosed above and configured for engaging the first structure.

Wisniewski fails to disclose that the wing members are twisted about an axis. However as described above, Dean teaches a resilient clip comprising wing members having all the features described above. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members twisted about an associated axis as taught by Dean in the retaining portion of the resilient clip disclosed by Wisniewski. Doing so, will compensate for differences in the thickness of a first member and securely hold a second member against the first member.

23. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wisniewski/Dean as applied to claim 53 above, and further in view of DeWitt (US 5,367,751).

The combination of Wisniewski and Dean used for the rejection of claim 53 having all the limitations mentioned above fails to disclose the fastening tab includes a pair of abutting flanges to inhibit the resilient clip from sliding laterally relative to the fastening tab. However, DeWitt demonstrates in combination, a resilient clip (30) for coupling a first structure (10) to a second structure (12). The first structure includes a fastening tab (16). The fastening tab includes a pair of abutting flanges (18) to inhibit the resilient clip from sliding laterally relative to the fastening tab (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a fastening tab including a pair of abutting flanges as demonstrated by DeWitt in combination with the resilient clip disclose by Wisniewski and modified by

Dean. Doing so, will prevent the movement of the resilient clip relative to the fastening tab.

***Allowable Subject Matter***

24. Claims 3, 4, 9-14, 18, 19 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wiley (US 2,217,781), Poutpitch (US 2,509,192), Meyer (US 2,959,259), Osterland et al. (US 4,630,338), Kuffel (US 5,759,004), Cornell et al. (US 5,774,949) and Danby et al. (US 5,873,690) are cited to show state of the art with respect to resilient clips having some of the features disclosed by the current invention.

Hirohata (US 4,668,145) is cited to show state of the art with respect to a flange extending around the periphery of the main body of a fastener.

Van Order et al. (US 5,636,891) is cited to show state of the art with respect to the use of spacing structures and resilient clips.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179.

Submissions of your responses by facsimile transmission are encouraged. Technology center 3620's facsimile number is (703) 308-3687. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee that the applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3626

RLR  
rcr

February 11, 2002



Anthony Knight  
Supervisory Patent Examiner  
Group 3600